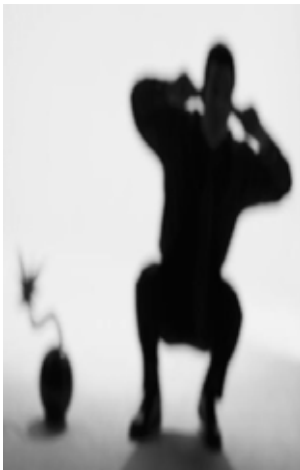


Contingency Planning

This article was prepared by AFP Consulting's risk management team and first appeared in the Law Society Gazette, the weekly journal of the Law Society of England and Wales. It was then reprinted in "The Alexander Forbes Guide to Risk Management for Solicitors" booklet. Please note that we have adapted this article to be in line with the Malaysian legal profession.



Risk comes from not knowing what you are doing.

Warren Buffet

When the appalling floods hit much of Europe in August 2002, some law firms in Prague and Germany had to close for business. In light of this, how confident are you that your firm could continue to function should disaster strike?

Contingency plans are something that larger law firms, i.e. 20 partners plus, tend to automatically put in place, due to the nature of their business.

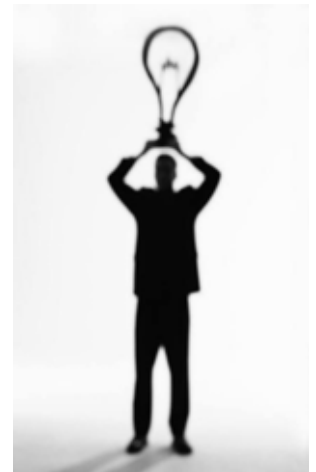
However, for smaller firms, contingency planning tends not to be at the top of their list of priorities. Understandably, most partners view the likelihood of fire or flood as minimal. Nevertheless, it is very important, and a necessary part of good risk management practice to have a "disaster recovery plan" in place.

Law firms need to make sure they have proper contingency plans in place. Below are some examples of how you should be protecting your firm against the threat of not being able to conduct your business.

- ◆ **Who's in Charge?** *Probably the most important part of contingency plan is having one person in your firm with the responsibility for letting all staff know what has happened, and what they should be doing. This person should have a list of telephone numbers of all staff kept outside the office.*
- ◆ **Files.** *Hard copies of all paper and electronic files should be kept in fireproof and waterproof cupboards and cabinets. When hit with an allegation of negligence, it will be of very little use to try the excuse that the files were damaged. Your files are always your main back-up when disputing an allegation of negligence, and failure to produce such files will most probably result in a claim.*
- ◆ **Computer Files.** *All computer systems should be properly backed-up so that if anything goes wrong with the computer, files will be current up to the previous day. For example, certain law firms have been sued for loss of documents following the World Trade Centre disaster.*
- ◆ **Offices.** *If the office is uninhabitable, you need to be able to have immediate use of an alternative location. Whether it be an archive office in another building, or even using another practice's offices or meeting rooms. A client will more than likely bring an action alleging negligence, if the completion date on a deal is delayed, regardless of the fact you had no office to work in.*

- ◆ **Supplies.** *It is important you also have access to headed paper, telephones, fax machines and computers. As we have said before, a client waiting for work to be completed is very unlikely to be satisfied with a “Sorry, we couldn’t get our hands on a fax machine to complete the deal in time” response.*
- ◆ **Office Insurance.** *Make sure your limits are adequate and that cover extends to include increased costs of working. Ensure protection is available to cover costs of restoration of documents.*

We cannot stress enough how important it is to have a disaster recovery plan in place, no matter how unlikely it might seem that disaster will strike your firm. A firm prepared for all eventualities will be looked upon far more favourably in the event of an allegation being made against it. It is up to the firm to prove it had not been negligent. If the relevant files have been destroyed for one reason or another, it will not instill confidence in the judge and you will more than likely end up paying out.



You better start swimming or sink like a stone, cause the times they are a-changing.

Bob Dylan

Brochure: Everyday Risk Management for Lawyers



Due to unforeseen circumstances, publication of “Everyday Risk Management for Lawyers” will be delayed. In its place, the PII & RM Department will be publishing a 2007 Calendar “A to Z of Risk Management” that will be sent to all members of the Bar by the end of the year.